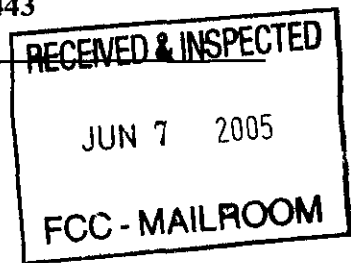


Request for Review
Re: Wayne Public Schools Form 471 App # 401443

June 3, 2005

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743



fax 202-418-0157

Re: CC Docket No. 02-6
Request for Review

DOCKET FILE COPY ORIGINAL

Contact Information:

Name: Wayne TWP School District
Address: 50 Nellis Drive
Wayne, NJ 07470-3555
Phone: 973-633-3033
Fax: 973-628-8058
e-mail: tcarlin@wayneschools.com

SLD action being appealed: This is an appeal of the original denial of FRN 1157397 as reported on the Funding Commitment Decision Letter for Funding Year 2004, dated December 3, 2004. An appeal was filed with the SLD on January 27, 2005 (Att 1) and was again denied in a letter of April 15, 2005 (Att 2).

Applicant Name:	Wayne TWP School District
Form 471 Application#:	401443
Billed Entity #:	122861
FRN #:	1157397
SPIN:	143004333
Service Provider:	Verizon Network Integration
Services Ordered:	Telecomm
Original FRN Amount:	\$ 46,267.20
Amount Approved:	\$ 0.00

Text from Funding Commitment Decision Letter: "Funding Commitment Decision - \$0.00 Invalid Telecom Provider"

Funding Commitment Decision Explanation: "This FRN is a request for Telecommunications Service from a provider that does not provide telecommunications on a common carrier basis."

Basis for Appeal -Overview: We focus our appeal on the fact that the lack of a minor correction or at least the questioning of a simple and somewhat obvious technical error

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Request for Review
Re: Wayne Public Schools Form 471 App # 401443

(changing the category of service from Telecommunications to Internet Access) during the PIA review has resulted in significant loss to the school district that is far greater in impact than what is intended by SLD rules. We do not believe that the approval of this appeal places an increased burden on the SLD's internal processing. In fact we know that changes such as the one requested here are frequently part of the PIA review process and that it is common for an SLD reviewer to change the category of service on an application as part of their review. This application did go through review and we did provide additional information on other FRNs but were never asked or informed about a potential denial of FRN 1157397. Had we been questioned in this case, the category of service would have been changed and the FRN would have been approved.

We base this appeal on an item-by-item response to the SLD's denial explanation of April 15, 2005 (see Att-2). We also base our appeal on the spirit (not the strict interpretation) of prior FCC decisions that have given consideration to the good intentions and due diligence of the applicant and the clear understanding that approval of this appeal will demonstrate the basic intentions of the program.

Basis for Appeal - Details:

In their letter of April 15, the SLD bases their denial on the following points:

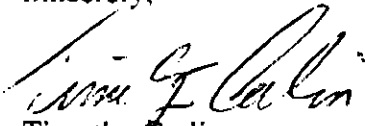
1. The SLD understands and restates our contention that the Service Provider and SPIN were correctly listed on the 471 for the FRN in question. Our clerical error was in checking the Telecommunications category of service instead of Internet. The FRN that immediately follows the FRN that has been denied was for the same Service Provider and SPIN and was entered correctly as Internet. We believe that this should have at least raised a question in our reviewer's mind.
2. The SLD states that Block 5, Item 11 on the 471 indicated Telecommunications services – we do not contest that this was our error.
3. The SLD goes on to say that *"the Telecommunications Service box is checked on the item 21 attachment for this funding request, corroborating the information in Block 5."* We do not agree that the markup of the item 21 attachment in any way corroborates the original error. The item 21 attachment is an ad-hoc MS Excel spreadsheet, prepared from the information on the 471 form itself. We would admit that this is evidence only of our original error. The SLD does not require the item 21 attachment to even state the category of service. The examples on the SLD website seem to imply that the description of the services and the service provider almost imply the category of service. In our case, the name of the ISP is very similar to the name of our Telecom provider (Verizon Network Integration vs Verizon New Jersey). We believe that the reviewer may have overlooked this error in the same way that we did, but we disagree that this is cause for a complete denial of funding. Further, we believe that whoever made the decision to deny this FRN should have at least given us the chance to explain or change the category of service before issuing a denial.

Request for Review
Re: Wayne Public Schools Form 471 App # 401443

Summary: We admit to a clerical error. We do not think it was a forty six thousand dollar one. We disagree with the SLD's decision based on a fundamental question of fairness. We made every effort to abide by program rules in our application and we demonstrated our responsiveness to SLD's questions during the PIA process. We feel that we were asked questions and provided responses to several issues on the 471 that have far less value to us than the total cost of our Internet access. If there were any cause for questions on the 471 application, this should have been one of them.

We contend that the SLD in its original denial and in its response to our original appeal has failed to demonstrate an attitude of basic fairness and consistency in trying to be of service to its beneficiaries. We do not deny our clerical mistake but we have paid an unjustly high price. We feel that the decision to deny our funding request should be reconsidered and funded through a simple change of service category.

Sincerely,



Timothy Carlin
Educational Technology Coordinator
Wayne TWP School District
50 Nellis Drive
Wayne, NJ 07470-3555
Phone: 973-633-3033
Fax: 973-628-8058
e-mail: tearlin@wayneschools.com

Attachments Included:

1. Wayne Letter of Appeal to SLD dated January 29, 2005, 2 pages
2. SLD Administrator's Decision on Appeal dated April 15, 2005, 2 pages
3. Item 21 Attachment for FRN 1157397

SLD Appeal re: Wayne TWP School District
Filed: January 29, 2005

Contact Information:

Name: Wayne TWP School District
Address: 50 Nellis Drive
Wayne, NJ 07470-3555
Phone: 973-633-3033
Fax: 973-628-8058
e-mail: tcarlin@wayneschools.com

VIA FAX: 973-599-6542

SLD Action being appealed: This is an appeal regarding the denial of Verizon Network Integration Corp. as an invalid telecom provider.

School Year:	2004
Applicant Name:	Wayne TWP School District
Form 471 Application#:	401443
Billed Entity #:	122861
FRN #:	1157397
Case Number:	21-200135

Explanation:

The SLD denied FRN 1157397 on the Funding Commitment Decision Letter dated December 3, 2004. The reason is Invalid Telecom Provider. The explanation is: This FRN is a request for Telecommunications Service from a provider that does not provide telecommunications on a common carrier basis.

Wayne TWP School District had the right provider, Verizon Network Integration Network Corp, the right SPIN, 143004333, for the right service, ATM for the Internet. The problem is that we inadvertently posted this entry under the Telecommunications section and not the Internet section. This was a clerical error.

You will note that there is another entry for Verizon Network Integration Corp with SPIN number, 143004333, that we did post under the proper Internet section.

In addition, this issue did not come up in a Program Integrity Assurance (PIA) review, where it could have been discussed at length.

SLD Appeal re: Wayne TWP School District
Filed: January 29, 2005

We believe that the SLD should consider that we filed the request with the proper intention but used the incorrect label. We would appreciate being granted the award.

Sincerely,

Timothy Carlin
Educational Technology Coordinator
Wayne TWP School District
50 Nellis Drive
Wayne, NJ 07470-3555
Phone: 973-633-3033
Fax: 973-628-8058
e-mail: tcarlin@wayneschools.com



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

April 15, 2005

Timothy Carlin
Wayne Township School District
50 Nellis Drive
Wayne, NJ 07470-3555

Re: Applicant Name: WAYNE TWP SCHOOL DISTRICT
Billed Entity Number: 122861
Form 471 Application Number: 401443
Funding Request Number(s): 1157397
Your Correspondence Dated: January 28, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1157397
Decision on Appeal: Denied
Explanation:

- On appeal, you state that you filed for ATM service from the correct service provider with the SPIN 143004333 which is Verizon Network Integration Corp. However, you inadvertently posted for this service under the Telecommunication section instead of the Internet section. You state that "it was a clerical error." You also state that there is another FRN with the same service provider which you post for internet access. You also state that the issue did not come up during the PIA review. In closing the appeal, you request that the SLD overturn the decision and allow funding under the Internet Access category.
- In Block 5, item 11 of this FRN, you indicated Telecommunications Services for this request. The Telecommunications Service box is checked on the item-21 attachment for this funding request, corroborating the information in Block 5.

Verizon Network Integration Corporation is not an eligible Telecommunications Services provider. It is the applicant's responsibility to ensure the accuracy and correctness of the information provided on the Form 470 and Form 471. You have failed to provide evidence on appeal that the SLD has erred in its determination.

- An Eligible Telecommunications Provider (ETP), a USAC term used for "telecommunications carrier," is an entity that provides telecommunications services, i.e., transmission services on a common carriage" basis. To be a telecommunications carrier, the carrier must (1) allow the customer to transmit information of its own design and choosing, without change in the form or content of the information, and (2) provide that capability for a fee directly to the public, or to such classes of users as to be effectively available to the public (i.e., hold itself out to serve indifferently all potential users).

USAC makes commitments for Telecommunications Services for applicants when the service provider is identified in USAC's database as an ETP; but, notwithstanding that identification, it is the service provider that is responsible for ensuring it meets these requirements in all instances of discounted telecommunications services. All telecommunications carriers are required under FCC rules to file an FCC Form 499A. By filing a Form 499A and checking at least one of the boxes on line 227, USAC may designate a service provider as an eligible telecommunication provider in its database. Since your appeal has not brought forth persuasive information that SLD has erred in its determination, your appeal is denied.

- Your Form 471 indicates that you selected a service provider that has not been designated as an eligible telecommunication carrier in the USAC database: Verizon Network Integration Corp. FCC regulations provide that telecommunications carriers are eligible for universal service support. 47 C.F.R. § 54.501(a). The FCC has determined that to be eligible to receive universal service support for telecommunications services, the provider must provide telecommunications services on a common carrier basis. Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157 ¶ 134 (rel. May 8, 1997)

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

SLD Form 471 - Year 2004 - Block 5, Item 21 Attachment - File 1 of 2

Name of Applicant: Wayne TWP School District
 Billed Entity Number: 122861
 Shared Discount Rate: 40%

471 Application #: 401443
 Contact: Tim Carlin
 Phone Number: 973-633-3033

471 Attachment Number: NJWA1.6

FRN: 1157397

Service Provider Name: Verizon Network Integration Corp.
 Category of Service (Check One): Telecomm ☒ or Internet Access ☐

Number of Pages: 1
 Service Provider SPIN: 143004333
 Service Provider Contract #: T

Description of Services

ATM Fast Packet (Data) Service for the school district

If Telecomm - Include number of phone lines	Monthly Costs	Annual Costs	One-Time Charges	Less Ineligible Amounts	PreDiscount Costs	Disc %	Funding Commitment Request
ATM Fast Packet (Data) Service for the school district	\$9,639.00	\$115,668.00	\$0.00	\$0.00	\$115,668.00	40%	\$46,267.20
Totals for this Attachment:	\$9,639.00	\$115,668.00	\$0.00	\$0.00	\$115,668.00		\$46,267.20